

Banking, Commerce and Insurance Committee

**One Hundred Fifth Legislature
Second Session – 2018**

SUMMARY OF 2018 LEGISLATION

Committee Members

**Senator Brett Lindstrom, Chairperson
Senator Matt Williams, Vice Chairperson
Senator Roy Baker
Senator Tom Brewer
Senator Burke Harr
Senator Mark Kolterman
Senator John McCollister
Senator Paul Schumacher**

Committee Staff:

**William Marienau, Committee Counsel
Janice Foster, Committee Clerk**

MEMORANDUM

TO: Members of the Legislature and
Other Interested Persons

FROM: Senator Brett Lindstrom, Chairman
Banking, Commerce and Insurance Committee

DATE: June 1, 2018

RE: Summary of 2017 Carryover Legislation and 2018 Session Legislation

I am pleased to present, for your reference, the following summary of the provisions and disposition of all 2017 carryover bills and the 2018 session bills referenced to and considered by the Banking, Commerce and Insurance Committee.

I hope you find this summary helpful as you review our work as of the conclusion of the 2018 session. If you have questions or need additional information, please contact me or our committee staff: Bill Marienau, Legal Counsel or Janice Foster, Committee Clerk.

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ABSTRACTERS

LB345 (Murante, at the request of the Governor) Eliminate an experience requirement for abstracters

Enacted

Effective July 19, 2018

This bill amends sections 76-542 and 76-546 of the Abstracters Act to eliminate a requirement of one year of land title-related experience for issuance of a certificate of registration or a temporary certificate of registration.

The bill passed 43-1-5 on February 23, 2018 and was approved by the Governor on February 28, 2018.

BUSINESS ENTITIES

LB292 (Larson) Authorize series limited liability companies under the Nebraska Uniform Limited Liability Company Act

Left in Committee

This bill would add six new sections to the Nebraska Uniform Limited Liability Company (LLC) Act to authorize formation of Series LLC's.

A Series LLC would be a single LLC that has multiple "series" of membership interests, each of which may have separate members, managers, assets and liabilities, and business interests, and all of which would be separate for liability purposes.

Section 1 would amend section 21-101 of the Nebraska Uniform Limited Liability Company Act to provide for assignment of the new sections of the bill within the act.

Section 2 would provide for series of transferable interests.

Section 3 would provide for management of a series.

Section 4 would provide for series distributions.

Section 5 would provide for dissociation from a series.

Section 6 would provide for termination of a series.

Section 7 would provide for foreign series.

Section 8 would provide for repeal of the amendatory section.

LB594 (Groene) Require a limited liability company seeking a tax benefit to file an amended certificate of organization

Left in Committee

This bill would amend section 21-118 of the Nebraska Uniform Limited Liability Company Act to provide that prior to applying for tax benefits under a tax credit, tax abatement, or tax incentive plan, a limited liability company (LLC) shall file an amended certificate of organization, which shall state the name of the LLC, the date of filing of its certificate of authority, and the names of the members of the LLC.

LB1121 (Larson) Adopt the Nebraska Uniform Protected Series Act

Enacted

Operative January 1, 2021

Speaker Priority Bill

This bill enacts the Nebraska Uniform Protected Series Act based on the Uniform Protected Series Act (UPSA) as promulgated by the National Conference of Commissioners on Uniform State Laws in 2017. The UPSA is the first comprehensive statute governing series limited liability companies. A series LLC offers two “liability shields” - the traditional vertical shield, which protects the LLC’s owners, including members associated with a protected series, from status liability for obligations of the LLC and of the protected series, and a new horizontal liability shield. The horizontal liability shield exists when an LLC establishes one or more protected series of identifiable assets and various requirements of the UPSA are satisfied. A protected series properly established and maintained under the act is shielded from liability for the obligations of the LLC and other protected series of the LLC, so judgment creditors of the LLC and other protected series of the LLC may not satisfy their claims against assets of the protected series. The UPSA provides comprehensive recordkeeping requirements and transparency provisions.

The bill provides for the UPSA to be integrated within the Nebraska Uniform Limited Liability Company Act, originally enacted in 2010.

The contents of the bill are as follows:

Section 1 amends section 21-101 of the Nebraska Uniform Limited Liability Company Act to assign the Nebraska Uniform Protected Series within it

GENERAL PROVISIONS

Sections 2 to 9 contain general provisions, such as: definitions, a description of the nature of a protected series, as well as its power, purpose, and duration; how the protected series is governed by the operating agreement of the LLC; and rules for applying certain provisions of Nebraska’s existing LLC act to protected series. The act uses the term “protected series” to highlight the internal liability shields which are a defining characteristic of the act, and to avoid confusion with the term “series,” which is often used to refer to classes of interests in business entities that do not affect liabilities to third parties. If the requirements of the UPSA are satisfied, then assets (referred to as “associated assets”) of one protected series are not available to satisfy claims of creditors of the LLC or of other protected series of the LLC.

ESTABLISHING PROTECTED SERIES

Sections 10 to 15 explain how to establish a protected series. As a default matter, all of the members must consent to establish a protected series. Further, the LLC must deliver a protected series designation to the Secretary of State, signed by the company. These sections also provide name, registered agent, and service of process provisions, as well as methods to obtain a certificate of good standing and reporting requirements.

ASSOCIATED ASSET; ASSOCIATED MEMBER; PROTECTED-SERIES TRANSFERABLE INTEREST; MANAGEMENT; RIGHT OF INFORMATION

Sections 16 to 20 include the record-keeping requirements that must be satisfied for an asset to qualify as an “associated asset” under the act. Unless provided otherwise in the operating agreement, the owner of an asset is responsible for meeting the record-keeping requirements for the asset. These provisions are designed to provide transparency of protected series transactions. These sections also provide rules for associating members with the protected series and address protected series transferable interests, management, and non-associated members’ rights to information.

LIMITATION OF LIABILITY AND ENFORCEMENT OF CLAIMS

Sections 21 to 24 cover limitations on liability and enforcement of claims. The act provides two different types of liability shields: vertical and horizontal. The traditional vertical shield protects equity holders and managers from status-based liability for an organization’s obligations. The horizontal shield protects a protected series of a series LLC and its associated assets from liability for the debts, obligations, or other liabilities of the company or another protected series of the company. These sections contain provisions for claims seeking to disregard limitation of liability, protected series-level charging orders for judgment creditors, and enforcement of judgments against certain assets of the company. A creditor may enforce a judgment against another protected series of a series LLC by pursuing assets owned by the company or another protected series of the company if the act’s requirements are not satisfied for these assets (or “non-associated assets”). With respect to foreign LLCs, this act follows the common law approach and applies Nebraska’s jurisprudence on piercing and affiliate liability companies and foreign protected series in carefully and narrowly delineated circumstances.

DISSOLUTION AND WINDING UP OF PROTECTED SERIES

Sections 25 to 27 address grounds for dissolution and provisions for winding up. Under the act, dissolution of a series LLC immediately dissolves every protected series of the company. Reinstatement of an administratively dissolved protected series or the rescinding a voluntarily dissolved company has the same retroactive effect at the protected series level.

ENTITY TRANSACTIONS RESTRICTED

Sections 28 to 35 contain restrictions on mergers and other entity transactions involving LLCs and protected series. These sections provide additional definitions, and also provide that a protected series may not be a party to an entity transaction. A series LLC may be a party to a merger if each other party to the merger is an LLC, and the surviving company is not created in a merger. Furthermore, these sections include provisions dealing with plans, statements that must be filed with appropriate authorities, and effects of mergers. They also provide that a creditor’s right that existed immediately before a merger may be enforced after the merger.

FOREIGN PROTECTED SERIES

Sections 36 to 39 address foreign protected series. The law of the jurisdiction of formation of a foreign series LLC governs certain aspects of a foreign protected series. These sections also provide guidelines for determining whether a foreign series LLC or foreign protected series of the company is doing business in the state. These sections also provide registration requirements

for foreign protected series and disclosure requirements in cases where a foreign LLC or foreign protected series is a party to a proceeding in Nebraska.

MISCELLANEOUS PROVISIONS

Sections 40 to 45 contain miscellaneous provisions, including an operative date of January 1, 2021, and also transition rules for pre-existing series limited liability companies and protected series.

Section 46 provides for repeal of the amendatory section.

The bill passed 41-2-6 on April 11, 2018 and was approved by the Governor on April 17, 2018.

NOTE: Interim study resolution LR378 (Larson, Lindstrom, Williams) calls on the Banking, Commerce and Insurance Committee to study what changes in the Uniform Protected Series Act are necessary for the act to best fit within Nebraska business entity law and practices.

LB1121A (Larson) Appropriation Bill

Returned by Governor without approval

This bill would appropriate \$350,000 from the Corporation Cash Fund for FY2018-19 to the Secretary of State to carry out LB1121.

CREDIT FOR REINSURANCE

LB815 (Schumacher) Provide regulatory authority regarding reinsurance

Enacted

Effective July 19, 2018

This bill, introduced at the request of the Nebraska Department of Insurance, amends Nebraska law related to credit for reinsurance. The bill updates the credit for reinsurance statutes to provide authority to the Director of Insurance to adopt and promulgate rules and regulations on the valuation of assets, the amount and form of security supporting reinsurance arrangements, and circumstances in which a credit for reinsurance would be reduced or limited when the insurer utilizes a special purpose financial captive for reinsurance agreements involving term and universal life policies. The bill adopts the latest changes to the National Association of Insurance Commissioners credit for reinsurance model law. The bill provides, section by section, as follows:

Section 1 amends section 44-416.06 to provide that a credit for reinsurance will be allowed only when the reinsurer meets the specific requirements of the statute and any additional requirements contained in rules and regulations adopted and promulgated by the director pursuant to subsection (2) of 44-416.09 are met.

Section 2 amends section 44-416.07 to provide that an asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of 44-416.06 shall be allowed in amount not exceeding liabilities carried by the ceding insurer subject to any additional requirements contained in rules and regulations adopted and promulgated by the director pursuant to subsection (2) of section 44-416.09.

Section 3 amends section 44-416.09 to provide authority to the director in subsection (2) to adopt and promulgate rules and regulations applicable to reinsurance arrangements relating to certain insurance products specified in the subsection. The new subsection allows the director to issue a rules and regulations that limit the ceding insurer's ability to calculate the amounts of security required to be held to the method provided in the valuation manual adopted pursuant to section 44-8908. The rules and regulations will not apply to certified reinsurers or insurers that maintain at least \$250,000,000 in capital and surplus and are licensed in at least twenty-six other states.

Section 4 provides for repeal of the amendatory section.

The bill passed 45-0-4 on April 10, 2018 and was approved by the Governor on April 11, 2018.

CREDIT SERVICES ORGANIZATIONS

LB904 (Vargas) Prohibit the charging of certain fees under the Credit Services Organization Act

Left in Committee

This bill would amend section 45-804 of the Credit Services Organization Act to provide that a credit services organization, including a salesperson, agent, representative, or an independent contractor of a credit services organization, shall not charge any brokerage fees or any other fees or charges in connection with a loan governed by the Nebraska Installment Loan Act.

DELAYED DEPOSIT SERVICES

LB194 (Vargas) Change provisions of the Credit Services Organization Act, Delayed Deposit Services Licensing Act, and Nebraska Installment Loan Act

Enacted

Operative January 1, 2019, except sections 19 and 22 are operative July 19, 2018

Senator Priority Bill (Vargas)

OVERVIEW

This bill amends the Delayed Deposit Services Licensing Act to make various changes which include enhanced consumer protections. For example, notice requirements are increased. Returned check charges are limited to one for each transaction, capped at fifteen dollars. Licensees must accept prepayment without penalty. Customers have until the end of the next business day to rescind a transaction. Licensees may utilize electronic payment, but only with written authorization from the customer. Licensees shall not attempt to negotiate a check after two failed collection attempts unless the licensee obtains a new, written authorization from the customer. A customer who cannot pay back a transaction when due may elect once a year to repay by means of an extended payment plan as set out. Licensees shall annually provide required information to the Director of Banking and Finance who shall annually report it and the total number of licensees to the Clerk of the Legislature.

SUMMARY

The bill provides, section by section, as follows:

Section 1 amends section 45-804 of the Credit Services Organization Act to provide that a credit services organization shall not charge any fees in connection with a loan governed by the Nebraska Installment Act.

Section 2 amends section 45-901 of the Delayed Deposit Services Licensing Act to provide for assignment of new sections 10 to 13, 15, and 19 within the act.

Section 3 amends section 45-902 of the Delayed Deposit Services Licensing Act to provide for definitions. This section amends the definition of "check" to include "an authorization to debit an account electronically." This section enacts new definitions of: "annual percentage rate;" "default" (a maker's failure to repay a delayed deposit transaction in compliance with the terms contained in a delayed deposit service agreement); "department;" and "maker" (an individual who receives a delayed deposit transaction).

Section 4 amends section 45-904 of the Delayed Deposit Services Licensing Act to provide that any delayed deposit transaction made by a person required to be licensed but is not licensed is void, and such person has no right to collect, receive, or retain any principal, interest, or fees.

Section 5 amends section 45-907 of the Delayed Deposit Services Licensing Act to harmonize terminology.

Section 6 amends section 45-911 of the Delayed Deposit Services Licensing Act to harmonize terminology.

Section 7 amends section 45-915.01 of the Delayed Deposit Services Licensing Act to harmonize terminology.

Section 8 amends section 45-917 of the Delayed Deposit Services Licensing Act to provide that the notice that a licensee is required to give to a maker shall be expanded to include (1) the name of the maker, transaction date, and transaction amount; (2) the payment due date and total payment due; and (3) the total of fees on the delayed deposit transaction, expressed as both a dollar amount and an annual percentage rate. This section further provides that the notice shall state that (1) this type of service should be used only to meet short-term cash needs; (2) a delayed deposit transaction shall not be for more than \$500 in total, including fees and charges; (3) a maker has the right to rescind a delayed deposit transaction before the end of the next business day; and (4) the maker has the right to rescind an authorization for electronic payment.

Section 9 amends section 45-918 of the Delayed Deposit Services Licensing Act to provide that fees permitted under this section (not more than \$15 per \$100) shall not be charged to individuals on active military duty or their spouses or dependents in an amount that exceeds what is allowed under federal law.

Section 10 enacts a new section in the Delayed Deposit Services Licensing Act to provide that if a check held by a licensee is returned unpaid to the licensee due to insufficient funds, a closed account, a stop-payment order, or other reason, the licensee may exercise all civil means to collect the face value of the check. This section provides that a licensee may contract for and collect one returned check charge for each delayed deposit transaction, not to exceed fifteen dollars, plus court costs and attorney's fees, and that the attorney's fees may not exceed the amount of the check. This section provides that a returned check charge shall not be allowed if, due to forgery or theft, the check is dishonored by the financial institution.

Section 11 enacts a new section in the Delayed Deposit Services Licensing Act to provide that a licensee shall accept prepayment from a maker without a penalty.

Section 12 enacts a new section in the Delayed Deposit Services Licensing Act to provide that a maker has the right to rescind a delayed deposit transaction before the end of the next business day, and that a maker has the right to redeem a check.

Section 13 enacts a new section in the Delayed Deposit Services Licensing Act to provide that a licensee may pay the proceeds from a delayed deposit transaction to the maker in the form of a check, money order, cash, stored value card, internet transfer, or authorized automated clearinghouse transaction. This section further provides that a licensee may utilize electronic payment through transfer or withdrawal of funds from the maker's account, but only with written authorization of the maker.

Section 14 amends section 45-919 of the Delayed Deposit Services Licensing Act to provide that a licensee shall not (1) charge for loan brokerage, insurance, or any other ancillary products, (2)

engage in unfair or deceptive practices or advertising, or (3) attempt to negotiate a check after two consecutive failed collection attempts unless the licensee obtains a new, written authorization from the maker.

Section 15 enacts a new section in the Delayed Deposit Services Licensing Act to provide that a maker who cannot pay back a delayed deposit transaction when due may elect once in any twelve-month period to repay the transaction by means of an extended payment plan pursuant to requirements set forth in this section.

Section 16 amends section 45-921 of the Delayed Deposit Services Licensing Act to update provisions regarding disposition of administrative fines collected by the Department of Banking and Finance.

Section 17 amends section 45-922 of the Delayed Deposit Services Licensing Act to harmonize terminology.

Section 18 amends section 45-923 of the Delayed Deposit Services Licensing Act to provide that the Director of Banking and Finance may issue a cease and desist order to prohibit a licensee in violation of the act from making additional delayed deposit transactions.

Section 19 enacts a new section in the Delayed Deposit Services Licensing Act to provide that licensees shall annually provide information specified in this section to the Director of Banking and Finance who shall annually report it and the total number of licensees to the Clerk of the Legislature.

Section 20 amends section 45-1001 of the Nebraska Installment Loan Act to provide for assignment of section 21 within the act.

Section 21 enacts a new section in the Nebraska Installment Loan Act to provide that the minimum term of a loan contract for a loan governed by the act shall be six months from the loan transaction date.

Section 22 provides for operative dates. Sections 1 to 18, 20, 21, and 23 become operative on January 1, 2019 and sections 19 and 22 become operative on their effective date (July 19, 2018).

Section 23 provides for repeal of the amendatory sections.

The bill passed 49-0-0 on April 18, 2018 and was approved by the Governor on April 19, 2018.

LB286 (Craighead) Adopt the Nebraska Flexible Loan Act and change provisions of the Delayed Deposit Services Licensing Act

Left in Committee

OVERVIEW

This bill would enact 21 new sections to be known as the Nebraska Flexible Loan Act. The bill would provide for a new type of license under which licensees – flexible credit lenders – would make flexible credit loans. Such a loan would be defined as one in which all of the following are applicable: (1) the debt is incurred for a personal, family, or household purpose; (2) the debt is not more than \$2,500; (3) the debt is unsecured; and (4) the debt is subject to prepayment in whole or in part at any time without penalty. A flexible credit lender would be allowed to charge a finance charge on a flexible credit loan at a rate not to exceed 18 percent per month on the outstanding principal loan amount. For closed-end credit, the term of a flexible credit loan may not exceed 24 months. Flexible credit lenders would be licensed and regulated by the Department of Banking and Finance.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Nebraska Flexible Loan Act.

Section 2 would enact a new section to provide for definitions: (1) “annual percentage rate;” (2) “consumer;” (3) “director;” (4) “Federal Truth in Lending Act;” (5) “finance charge;” (6) “flexible credit lender;” (7) “flexible credit loan;” (8) “licensee;” and (9) “regularly engaged in the business.”

Section 3 would enact a new section to provide that the Nebraska Flexible Loan Act does not apply to regulated financial institutions, insurance companies, or delayed deposit services businesses.

Section 4 would enact a new section to require a license to engage in the business of making flexible credit loans. This section would provide for application to the Director of Banking and Finance for a license.

Section 5 would enact a new section to provide for denial of a license application by the Director of Banking and Finance.

Section 6 would enact a new section to provide for issuance of a license.

Section 7 would enact a new section to provide that a licensee shall designate its principal place of business and may obtain branch office licenses.

Section 8 would enact a new section to provide for annual renewal of licenses.

Section 9 would enact a new section to provide for denial of renewal of a license or suspension or revocation of a license by the Director of Banking and Finance.

Section 10 would enact a new section to provide that a licensee shall keep books, accounts, and records subject to examination by the Director of Banking and Finance.

Section 11 would enact a new section to provide that licensees shall submit annual reports to the Director of Banking and Finance that include a licensee's average annual percentage rate and average loan amount. This information shall be compiled and disseminated annually by the director.

Section 12 would enact a new section to provide for surrender of a license by a licensee to the Director of Banking and Finance.

Section 13 would enact a new section to provide that the revocation, suspension, surrender, expiration, or alteration of a license shall not impair or affect obligations and rights under a flexible credit loan under the act.

Section 14 would enact a new section to provide that a licensee shall not advertise false, misleading, or deceptive statements with regard to the rates, terms, or conditions of a flexible credit loan. This section would provide that a licensee shall not provide a flexible credit loan to a consumer with more than one outstanding flexible credit loan provided under the act at any one time. This section would provide that a licensee shall not provide a flexible credit loan with an annual percentage rate greater than that specified in federal statute to a member of the United States armed forces on active duty, a person on active National Guard or reserve duty, or a military dependent. This section would provide that a licensee shall not condition a flexible credit loan upon a consumer's agreement to repay the loan by recurring automatic electronic fund transfers, except that this does not preclude the consumer from providing authorization to repay a loan by recurring automatic electronic fund transfers if the licensee offers such a repayment option.

Section 15 would enact a new section to provide that a flexible credit loan provided by a person who is required to be but is not licensed is void and unenforceable.

Section 16 would enact a new section to provide that a licensee shall conspicuously display specified disclosures at its licensed office and branch offices.

Section 17 would enact a new section to provide that a licensee may charge a finance charge on a flexible credit loan at a rate not to exceed eighteen percent per month on the outstanding principal loan amount.

Section 18 would enact a new section to provide that a licensee may collect: (a) delinquency charges if an installment is not paid within seven days after it is due, equal to five percent of the amount of the installment; (b) court costs and attorney's fees if a flexible credit loan is referred for collection; and (c) dishonored check service fees.

Section 19 would enact a new section to provide that for closed-end credit, the term of the flexible credit loan may not exceed twenty-four months. This section would provide for loans to be repayable in installments.

Section 20 would enact a new section to provide for disposition of fees and civil penalties.

Section 21 would enact a new section to provide the Director of Banking and Finance with rule and regulation authority.

Section 22 would amend section 45-902 of the Delayed Deposit Services Licensing Act to expand the definition of “check” to include authorization to debit an account electronically.

Section 23 would amend section 45-915 of the Delayed Deposit Services Licensing Act to provide that a licensee may offer a delayed deposit services business only at an office “or offices” designated in its license application, and would eliminate provisions which provide that a licensee may operate branch offices only in the same county in which the licensee’s designated principal place of business is located.

Section 24 would provide for repeal of the amendatory sections.

LB386 (Lindstrom) Change time period a licensee under the Delayed Deposit Services Licensing Act may hold a check

Left in Committee

This bill would amend section 45-919 of the Delayed Deposit Services Licensing Act to provide that a licensee shall not hold or agree to hold a check for more than “forty” days rather than “thirty-four” days.

LB1105 (Vargas) Change the transaction loan period under the Delayed Deposit Services Licensing Act

Left in Committee

This bill would amend section 45-919 of the Delayed Deposit Services Licensing Act to provide that a licensee (payday advance business) may not hold or agree to hold a customer’s check for “less” than thirty-four days instead of “more” than thirty-four days.

ECONOMIC DEVELOPMENT

LB96 (Crawford) Provide an eligible activity for assistance from the Site and Building Development Fund as prescribed

Enacted

Effective July 19, 2018

This bill amends section 81-12,147 of the Site and Building Development Act, which provides that the Department of Economic Development shall use the Site and Building Development Fund to finance loans, grants, subsidies, credit enhancements, and other financial assistance for industrial site and building development.

The bill expands the enumerated list of activities that are eligible for assistance from the fund to include public and private sector initiatives that will improve the military value of military installations by making necessary improvements to buildings and infrastructure.

The bill passed 47-0-2 on February 8, 2018 and was approved by the Governor on February 14, 2018.

ELECTRONIC PAYMENT

LB559 (Schumacher) Prohibit the collection of interchange fees on specified taxes and fees relating to electronic payment transactions

Left in Committee

This bill would enact seven new sections to prohibit the collection of interchange fees on certain taxes or fees in the case of electronic payment transactions initiated by debit card or credit card. The bill would provide that the amount of any state or local tax or fee that is calculated as a percentage of an electronic payment transaction amount and listed separately on the invoice or the amount of any motor fuel taxes shall be excluded from the amount of the interchange fee charged for that electronic payment transaction.

The bill would provide the Attorney General with enforcement authority. Intentional violations would be subject to court-imposed civil penalties of not less than one thousand dollars nor more than five thousand dollars per violation. The court would be authorized to order equitable relief. Persons paying interchange fees in violation of the bill would be allowed to seek actual damages.

The bill would provide that if it were held invalid with regard to a federally chartered financial institution, then the bill shall be equally invalid with regard to a financial institution licensed by or operating within this state. The bill would provide that its sections are not severable.

The bill would provide that it shall be applicable to electronic payment transactions processed on or after October 1, 2017.

FINANCIAL INSTITUTIONS

LB384 (Lindstrom) Change the rate of interest to be charged on installment loans under the Nebraska Installment Loan Act

Indefinitely Postponed on General File

This bill would amend section 45-1024 of the Nebraska Installment Loan Act to provide that licensees may receive charges on loans not exceeding 29 percent per annum instead of 24 percent per annum on that part of the unpaid principal balance not in excess of \$1,000, and 21 percent per annum on any remainder of the unpaid principal balance.

LB582 (McDonnell) Authorize membership in a credit union by geographic boundary

Left in Committee

This bill would amend section 21-1743 of the Credit Union Act which currently provides that credit union organization shall be limited to groups of both large and small membership having a “common bond of occupation or association,” including religious, social, or educational groups, employees of a common employer, or members of a fraternal, religious, labor, farm, or educational organization and the members of the immediate families of such persons. This bill would add to these groups “persons within a defined geographic boundary.”

LB812e (Lindstrom) Adopt federal banking provisions, revise powers of certain state-chartered financial institutions, and eliminate obsolete provisions

Enacted

Effective April 12, 2018

LB812, introduced at the request of the Nebraska Department of Banking and Finance, amends various sections relating to financial institutions. The bill provides, section by section, as follows:

Section 1 amends section 8-135 of the Nebraska Banking Act, which authorizes minors to establish deposit accounts, to provide that a reference in subsection (3) to the federal Electronic Fund Transfer Act is to such act as it existed on January 1, 2018 (changed from January 1, 2017).

Section 2 amends section 8-143.01, which governs loans to bank insiders, to provide that references in subsection (10) to 12 USC 84 and its implementing federal Regulation O are to such law and regulations as they existed on January 1, 2018 (changed from January 1, 2017).

Section 3 amends section 8-157.01, which governs automated teller machines (ATMs) and electronic switches, to remove obsolete references in subsections (3) and (8); to provide that a reference in subsection (4) to the federal Electronic Fund Transfer Act is to such act as it existed

on January 1, 2018 (changed from January 1, 2017); and to repeal obsolete references in subsection (14) related to administrative actions, fees, and a moratorium.

Section 4 amends section 8-167.01, which provides an exception to the requirement for publication of bank reports contained in section 8-167, to provide that a reference to 12 CFR part 350 is to such regulation as it existed on January 1, 2018 (changed from January 1, 2017).

Section 5 amends section 8-183.04, which authorizes a mutual savings association to convert to a state bank charter and retain its mutual form, to provide that a reference to 12 CFR part 567 is to such regulation as it existed on January 1, 2018 (changed from January 1, 2017).

Section 6 amends section 8-1,140 of the Nebraska Banking Act, which is the “wild-card” statute for state-chartered banks. This section is amended to provide that state-chartered banks have the same rights, powers, privileges, benefits, and immunities as a federally chartered bank doing business in Nebraska as of January 1, 2018 (changed from January 1, 2017). Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually.

Section 7 amends section 8-318, relating to customer accounts in building and loan associations to provide that references to the federal Home Owners Act and federal Electronic Fund Transfer Act are to such acts as they existed on January 1, 2018 (changed from January 1, 2017).

Section 8 amends section 8-335, which is the “wild-card” statute for state-chartered savings associations. This section is amended to provide that state-chartered savings associations have the same rights, powers, privileges, benefits, and immunities as a federally chartered savings association doing business in Nebraska as of January 1, 2018 (changed from January 1, 2017). Due to state constitutional restriction on delegation of legislative authority, this statute is amended annually.

Section 9 amends section 21-17,115 of the Credit Union Act, which is the “wild-card” statute for state-chartered credit unions. This section is amended to provide that state-chartered credit unions have the same rights, powers, privileges, benefits, and immunities as a federally chartered credit union doing business in Nebraska as of January 1, 2018 (changed from January 1, 2017). Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually.

Section 10 provides for repeal of the amendatory sections.

Section 11 provides for the emergency clause.

The bill passed 46-0-3 with the emergency clause on April 10, 2018 and was approved by the Governor on April 11, 2018.

FRANCHISE AGREEMENTS

LB742e (Lindstrom) Change provisions relating to noncompete agreements under the Franchise Practices Act

Enacted
Effective April 12, 2018

This bill amends section 87-404 of the Franchise Practices Act to clarify that its provisions regarding reformation and enforcement by a judge or arbitrator of an unreasonable noncompete agreement apply to a noncompete agreement entered into by a franchisor headquartered in the state of Nebraska, notwithstanding section 87-403 of the Franchise Practices Act. Section 87-403 provides that, among other things, the act applies only to a franchise the performance of which contemplates or requires the franchisee to establish or maintain a place of business within the state of Nebraska.

The bill passed 45-0-4 with the emergency clause on April 10, 2018 and was approved by the Governor on April 11, 2018.

HEALTH INSURANCE

LB324 (Kolterman) Adopt the Pharmacy Benefit Fairness and Transparency Act

Left in Committee

This bill would enact 15 new sections to be known as the Pharmacy Benefit Fairness and Transparency Act to provide for regulation of pharmacy benefit managers. The bill would provide, section by section, as follows:

Section 1 would provide for a named act: the Pharmacy Benefit Fairness and Transparency Act.

Section 2 would provide definitions: (1) “clean claim” (a claim received by a pharmacy benefit manager which requires no further information, adjustment, or alteration to be processed and paid); (2) “contracted pharmacy;” (3) “covered entity” (a nonprofit hospital or medical services corporation, health insurer, managed care company, or health maintenance organization; health program administered by the state in the capacity of provider of health insurance coverage; or an employer, labor union, or other group that provides health insurance coverage); (4) “covered individual;” (5) “day;” (6) “department;” (7) “director;” (8) “generic drug;” (9) “insurer;” (10) “pharmacist;” (11) “pharmacy;” (12) “pharmacy benefit manager” (a person or entity performing pharmacy benefits management services for a covered entity); (13) “pharmacy benefits management” (administration or management of prescription drug benefits provided by a covered entity under terms and conditions of the contract between the pharmacy benefit manager and the covered entity); (14) “prescription;” (15) “prescription drug;” and (16) “reimbursement amount.”

Section 3 would provide that a pharmacy benefit manager doing business in this state shall obtain a certificate of authority as a third-party administrator and shall be subject to the Third-Party Administrator Act and the Pharmacy Benefit Fairness and Transparency Act. A pharmacy benefit manager shall pay a certification fee to the Director of Insurance not to exceed \$5,000. The director shall enforce the Pharmacy Benefit Fairness and Transparency Act. A violation of the act shall be an unfair trade practice subject to the Unfair Insurance Trade Practices Act.

Section 4 would provide that a pharmacy benefit manager shall exercise good faith and fair dealing in performing its duties under a contract with a covered entity or a contracted pharmacy.

Section 5 would provide that if a covered individual or pharmacist receives incorrect, misleading, or inaccurate information from a pharmacy benefit manager, the covered individual or pharmacist may request corrective actions or sanctions from the Director of Insurance against the pharmacy benefit manager.

Section 6 would provide that a pharmacy benefit manager shall not mandate to contracted pharmacies basic record keeping that is more stringent than that required by state or federal law or regulation. A pharmacy benefit manager shall adjust its payment to a contracted pharmacy consistent with a price increase or decrease within seven days after a price increase or decrease

notification by a manufacturer, supplier, or nationally recognized source. A pharmacy benefit manager shall accept into its network any pharmacy or pharmacist licensed in good standing with the State of Nebraska. A pharmacy benefit manager shall not exclude a Nebraska pharmacy from participation in its specialty pharmacy network as long as the pharmacy is willing to accept the terms of the pharmacy benefit manager's agreement with its specialty pharmacies. A pharmacy benefit manager shall not require a pharmacist or pharmacy to participate in one contract with a pharmacy benefit manager in order to participate in other contracts with the same pharmacy benefit manager. Covered individuals who use a mail-order pharmacy shall not be charged fees or higher copays to use a contracted pharmacy. A pharmacy benefit manager shall not mandate accreditation for a contracted pharmacy as a prerequisite to (a) mailing a prescription drug to a covered individual or reimbursing the contracted pharmacy for such drug or (b) participating in a network or plan.

Section 7 would provide that a pharmacy benefit manager shall make available to the Director of Insurance and to each contracted pharmacy information related to the pharmacy benefit manager's pricing methodology and reimbursement amount for single-source and multiple-source prescription drugs and compounds and specialty drugs.

Section 8 would provide that all financial benefits a pharmacy benefit manager receives, including rebates, discounts, credits, fees, grants, chargebacks, shall be disclosed to the covered entity with which the pharmacy benefit manager contracts.

Section 9 would provide that a pharmacy benefit manager shall disclose to a covered entity and to a contracted pharmacy the method used to calculate total dispensing fees, the cost of the prescription drug, and administration fees.

Section 10 would provide that all benefits payable under a pharmacy management plan shall be paid as soon as feasible but no later than twenty days after receipt of a clean claim if the claim is submitted electronically or thirty days after receipt of a clean claim if the claim is submitted in paper format. Adjudication of a clean claim shall not be audited unless fraud is suspected.

Section 11 would provide for requirements by which an audit of a contracted pharmacy's records by a pharmacy benefit manager shall be conducted.

Section 12 would provide that a pharmacy benefit manager shall mail an explanation of benefits to a covered individual for each of the covered individual's pharmacy claims for a prescription drug that is covered or managed by the pharmacy benefit manager.

Section 13 would provide that a pharmacist or contracted pharmacy shall not be (a) prohibited from or (b) subject to penalties or removal from a network or plan for sharing information regarding the cost, price, or copayment of a prescription drug with a covered individual.

Section 14 would provide that a covered entity that contracts with a pharmacy benefit manager to perform pharmacy benefits management services shall require the pharmacy benefit manager to notify the Department of Insurance of detection of fraud including prescription drug diversion activity.

Section 15 would provide the Director of Insurance with rule and regulation authority.

LB474 (Baker) Require insurance coverage for synchronizing prescription medications

Left in Committee

This bill would enact a new section in the insurance statutes to provide that individual and group health policies, certificates, contracts, and plans shall apply a prorated daily cost-sharing rate to prescriptions that are dispensed by a network pharmacy for a partial supply if the prescribing practitioner or pharmacist determines the fill or refill to be in the best interest of the patient and the patient requests or agrees to a partial supply for the purpose of synchronizing the patient's medications.

LB480 (McCollister) Provide requirements relating to health insurance policies and coverage for insureds in temporary jail custody

Enacted

Effective July 19, 2018

This bill enacts a new section 1 to provide requirements relating to health insurance policies and coverage for insureds in temporary jail custody pending disposition of charges. The provisions of this section are as follows:

Subsection (1) provides definitions for: (a) "health insurance policy;" (b) "jail" (a city or county correctional or jail facility); (c) "pending disposition of charges" (up until the time of sentencing); and (d) "temporary custody" (in the custody of a jail pending disposition of charges).

Subsection (2) provides that an insurer may not (i) cancel coverage of an insured while in temporary custody on the basis of such custody or (ii) deny coverage for medical services or supplies if provided to an insured by an employee or contractor of the jail who meets the credentialing criteria of the health insurance policy.

Subsection (3) provides that an insurer shall pay claims for covered medical services or supplies provided by an out-of-network health care provider to an insured in temporary coverage in an amount not less than one hundred percent of the Medicare rate.

Subsection (4) provides that an insurer may: (a) deny coverage for treatment of injuries resulting from a violation of law by the insured; (b) exclude covered medical services provided to an insured in temporary custody from any requirements for reporting quality outcomes or performance; (c) impose the same policy provisions for medical services provided to insureds in temporary custody as imposed for insureds not in temporary custody; (d) deny coverage of tests or evaluations required for all individuals in temporary custody; (e) limit coverage of hospital and ambulatory surgical center services provided to an insured in temporary custody to medical

services provided by in-network hospitals and ambulatory surgical centers; (f) deny coverage for costs of medical services made necessary by the negligence, recklessness, or intentional misconduct of the jail or its employees; and (g) cancel coverage or deny coverage for any covered medical services or supplies provided to an insured during incarceration after disposition of charges or while in the custody or supervision of the Department of Corrections.

Subsection (5) provides that a jail that has sought reimbursement under this section shall notify the insurer that an insured has been subsequently incarcerated after disposition of charges or committed to the custody or supervision of the Department of Corrections.

Subsection (6) provides that if an insurer refuses to credential a health care provider who is an employee or a contractor of a political subdivision that provides medical services in a jail, the insurer must give written notice to the provider explaining the reasons for the refusal.

Subsection (7) provides that this section shall not: (a) apply to coverage for an insured in custody following the disposition of charges; (b) impair any right of an employer to remove an employee from coverage under a health insurance plan; (c) release an insurer from the requirement to coordinate benefits; or (d) limit an insurer's right to rescind coverage in accordance with law.

Subsection (8) provides that a political subdivision shall not pay policy premiums on behalf of a person in temporary custody.

Subsection (9) provides that this section applies to health insurance policies issued or renewed on or after January 1, 2019, and to claims for reimbursement based on such policies for costs incurred on or after January 1, 2019.

Section 2 amends section 47-701 to harmonize provisions.

Section 3 provides that section 1 shall be assigned to Chapter 44, article 7.

Section 4 provides for repeal of the amendatory section.

The bill passed 45-0-4 on February 23, 2018 and was approved by the Governor on February 28, 2018.

LB550 (Lindstrom) Change provisions relating to the Comprehensive Health Insurance Pool

Left in Committee

This bill would amend section 44-4227 of the Comprehensive Health Insurance Pool Act to repeal the requirement that the Comprehensive Health Insurance Pool (CHIP) shall annually determine the standard risk rate “with the assistance of an independent actuary.” The standard risk rate is a basis for establishing annual pool premium rates. It is a calculation of rates for

individual health insurance in this state that anticipates risk experience and expenses for such coverage.

CHIP is Nebraska's high-risk health insurance plan. At the present time there is a very small number of CHIP policyholders.

LB604 (Riepe) Adopt the Nebraska Right to Shop Act and place duties on insurance carriers

Left on General File Provisions amended into LB1119 and Enacted

OVERVIEW

This bill would enact the Nebraska Right to Shop Act to provide that an insurance carrier may develop and implement a program that provides incentives for enrollees in a health plan who elect to receive shoppable health care services covered by the plan from health care providers that charge less than the average price paid by that carrier for that shoppable health care service.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would provide for a named act: the Nebraska Right to Shop Act.

Section 2 would provide for definitions: (1) "allowed amount" (the contractually agreed upon amount paid by an insurance carrier to a health care entity participating in its network or the amount the health plan is required to pay under the health plan policy or certificate for out-of-network covered benefits); (2) "dependents;" (3) "director;" (4) "health care entity" (a licensed facility, licensed professional, or licensed organization or association); (5) "insurance carrier" (an entity that provides health insurance, including an insurance company, fraternal benefit society, health maintenance organization, and the State of Nebraska); (6) "program;" and (7) "shoppable health care service" (a health care service for which an insurance carrier offers a shared savings incentive payment under a program established by the insurance carrier, and includes physical and occupational therapy services, obstetrical and gynecological services, radiology and imaging services, laboratory services, infusion therapy, inpatient or outpatient surgical procedures, and outpatient nonsurgical diagnostic tests or procedures).

Section 3 would provide that the Nebraska Right to Shop Act shall apply to the State of Nebraska and any other insurance carrier that elects to be subject to the act.

Section 4 would provide that prior to a nonemergency admission, procedure, or service and upon request by a patient or prospective patient, a health care entity within the patient's or prospective patient's insurer network shall, within three days, disclose the amount allowed, and a health care entity outside the patient's or prospective patient's insurer network shall, within three days, disclose the amount that will be charged.

Section 5 would provide that an insurance carrier shall establish an interactive mechanism on its web site that enables an enrollee to request and obtain from the insurance carrier information on the payments made by the insurance carrier to network providers.

Section 6 would provide that within two working days of an enrollee's request, an insurance carrier shall provide a good faith estimate of the amount the enrollee will be responsible to pay out-of-pocket for a proposed nonemergency procedure or service.

Section 7 would provide that an insurance carrier shall develop and implement a program that provides incentives for enrollees in a health plan who elect to receive shoppable health care services that are covered by the plan from providers that charge less than the average price paid by that insurance carrier for that shoppable health care service.

Section 8 would provide that an insurance carrier shall make the incentive program available as a component of health plans offered by the insurance carrier in this state.

Section 9 would provide that an insurance carrier shall file a description of the incentive program with the Department of Insurance so that the department may determine if the incentive program complies with the Nebraska Right to Shop Act.

Section 10 would provide that if an enrollee elects to receive a shoppable health care service from an out-of-network provider that results in a shared savings incentive payment, the insurance carrier shall apply the amount paid for the service toward the enrollee's member cost sharing as if the health care services were provided by an in-network provider.

Section 11 would provide that a shared savings incentive payment made by an insurance carrier is not an administrative expense of the insurance carrier for rate development or rate filing purposes.

Section 12 would provide that each year each insurance carrier other than the State of Nebraska shall file specified information with the Department of Insurance and that each year the department shall submit an aggregate report to the Legislature for all insurance carriers filing information with the department.

Section 13 would provide the Department of Insurance with rule and regulation authority.

Section 14 would amend section 44-361 to provide that payments made pursuant to the Nebraska Right to Shop Act shall not be considered an illegal rebate of premium.

Section 15 would provide for repeal of the amendatory section.

COMMITTEE AMENDMENTS

The committee amendments would amend section 3 to eliminate the requirement that the State of Nebraska shall establish a shared savings incentive payment program for state employees.

The committee amendments would insert a new section 13 and would insert and amend section 84-1613 to provide that the personnel division of the Department of Administrative Services may develop and implement a shared savings incentive payment program for state employees and may use the State Employees Insurance Fund to make incentive payments to state employees.

The committee amendments would add new definitions of "enrollee" and "incentive payment" and would make stylistic and clean-up changes.

LB726 (Wayne) Require insurance coverage for in vitro fertilization procedures

Left in Committee

This bill would enact a new section to provide that individual and group sickness and accident insurance policies, certificates, and subscriber contracts; hospital, medical, or surgical expense-incurred policies; and self-funded employee benefit plans to the extent not preempted by federal law shall provide coverage for outpatient expenses that arise from in vitro fertilization procedures.

The bill would provide that this coverage shall be required only if: the patient is covered under the policy, certificate, contract, or plan; the fertilization is attempted only with the sperm of the patient's spouse; the patient and patient's spouse have a history of infertility; the patient has been unable to attain a pregnancy through less costly covered treatments; and the procedures are performed at a medical facility that conforms to minimal standards adopted by the American Society for Reproductive Medicine.

The bill would provide an insurer, health maintenance organization, or self-insuring employer is not required to offer this coverage if it is owned by or part of an entity affiliated with a bona fide religious denomination that believes that in vitro fertilization is contrary to its moral principles.

INSURANCE LICENSEES

LB486 (Kolterman) Change continuing education requirements for insurance licensees

Enacted

Effective July 19, 2018

This bill amends sections 44-3902, 44-3904, and 44-3905 of the insurance statutes governing continuing education for producer and consultant licensees to provide that “active participation” by a member in activities of a “professional insurance association” may be approved by the Director of Insurance for up to six hours of continuing education credit to be applied to the member licensee’s twenty-one-hour continuing education requirement for life, accident and health or sickness, property, casualty, and personal lines property and casualty insurance for each two-year license period.

The bill defines “active participation” as (a) attendance at formal meetings of a professional insurance association where a business program is presented, (b) service on and involvement in the activities of the board of directors or a formal committee of a professional insurance association, or (c) participation in industry, regulatory, or legislative meetings held by or on behalf of a professional insurance association.

The bill defines “professional insurance association” as a membership organization that offers courses, lectures, seminars, or other instructional programs approved by the Director of Insurance as continuing education activities, is organized for the express purpose of promoting the interests of insurance licensees, and is based on paid membership renewable annually or biennially.

The bill passed 46-0-3 on February 23, 2018 and was approved by the Governor on February 28, 2018.

LB743 (Lindstrom) Adopt the Public Adjusters Licensing Act, redefine insurance consultant, change prelicensing and continuing education requirements for licensees, change insurance producer requirements under the Nebraska Protection in Annuity Transactions Act, and change provisions under the Insured Homeowners Protection Act

Enacted

Effective July 19, 2018

Contains provisions of LB220 (Harr)

Committee Priority Bill (Banking, Commerce and Insurance)

OVERVIEW

This bill, introduced at the request of the Department of Insurance, changes provisions relating to insurance producer continuing education, eliminates prelicensing education requirements for insurance producers, and adopts the National Association of Insurance Commissioners model

law on the public adjusters, persons that provide compensated assistance to an insured on first party claims for loss or damage to property.

The bill also contains the provisions of LB220, which amend sections 44-8601 and 44-8602 of the Insured Homeowners Protection Act and enact three new sections to be assigned with such act in order to provide for more consumer protections regarding post-loss assignment of rights or benefits to residential contractors under property and casualty insurance policies insuring residential real estate.

SUMMARY

The bill provides, section by section, as follows:

Section 1 enacts a new section to provide for a named act for sections 1 to 19: the Public Adjusters Licensing Act.

Section 2 enacts a new section to declare that the purpose of the act is to govern qualifications and procedures for licensing public adjusters in this state and to specify the duties and responsibilities of public adjusters.

Section 3 enacts a new section to provide for definitions: (1) “business entity;” (2) “catastrophic disaster;” (3) “department;” (4) “director;” (5) “home state;” (6) “individual;” (7) “insured;” (8) “person;” (9) “public adjuster;” (10) “uniform business entity application;” and (11) “uniform individual application.”

Section 4 enacts a new section to provide prohibitions on persons acting as a public adjuster without being licensed in accordance with the act, on public adjusters misrepresenting that they work for an insurer, and on a public adjuster entering an agreement to repair property that the adjuster has engaged to adjust. This section does not apply to certain people listed in subsection (4) including attorneys.

Section 5 enacts a new section to establish the criteria for a resident public adjuster. The criteria include age, residence or primary place of business in this state, has not committed prohibited acts, payment of a fee, trustworthiness, proof of financial responsibility, and maintenance of an office in this state.

Section 6 enacts a new section to establish the criteria for a nonresident public adjuster. The criteria include being licensed in good standing as a public adjuster in the individual’s home state, paying the fee, and maintaining a license in good standing in the home state.

Section 7 enacts a new section to provide the criteria for a business entity to become a public adjuster in this state, including the payment of a fee and the designation of a resident public adjuster as the responsible designated adjuster.

Section 8 enacts a new section to provide that an individual must pass an examination to become a resident public adjuster. This section allows the director to contract with an outside testing service for the administration of the examination.

Section 9 enacts a new section to provide exemptions to examination to certain individuals.

Section 10 enacts a new section to provide the term of the public adjuster license for both an individual and business entity. This section provides the information on the license and duties on the licensee to inform the Department of Insurance of various occurrences including name changes, administrative actions, and criminal prosecutions. This section also provides that licensees are subject to both the Unfair Insurance Trade Practices Act and the Unfair Insurance Claims Settlement Practices Act.

Section 11 enacts a new section to provide authority for the Director of Insurance to penalize public adjusters for actions listed in the section. This section mirrors the penalty statute for insurance producers.

Section 12 enacts a new section to require public adjusters to secure a surety bond in the minimum amount of \$20,000.

Section 13 enacts a new section to provide continuing education requirement for public adjusters.

Section 14 enacts a new section to govern the contract between the public adjuster and the insured. This section provides a duty on public adjusters to ensure that all contracts for their services contain certain provisions listed in this section. This section also lists prohibited provisions. This section allows a contract to specify that a public adjuster may be listed as a co-payee of an insurance settlement, but if the compensation is based on a share of the settlement, such percentage shall be listed. This section also provides that commission shall not be paid if the insurer pays within 72 hours of the loss being reported. Also, this section requires the public adjuster to provide a disclosure to the insured regarding the claim process. The disclosure must include several provisions related to the process and the insured's rights. This section provides that if a contract is executed, the public adjuster must provide a duplicate to the insured and inform, in writing, the insurer. This section provides that the insured has the right to rescind the contract within three business days.

Section 15 enacts a new section to place an escrow requirement on a public adjuster if the public adjuster holds settlement funds.

Section 16 enacts a new section to establish record keeping requirements on a public adjuster and provides the authority to the Department of Insurance to examine such records.

Section 17 enacts a new section to provide ethical duties towards the insured that the public adjuster must follow. These include loyalty to the insured, lack of a conflict of interest with firms completing the repairs, and not making false statements.

Section 18 enacts a new section to provide that a public adjuster may charge reasonable fees, except that in the event of a catastrophic disaster, fees may not exceed ten percent of the settlement or proceeds.

Section 19 enacts a new section to provide the Director of Insurance with rule and regulation authority.

Section 20 amends section 44-2607 of the insurance consultant statutes to provide that the definition of “insurance consultant” does not include a public adjuster licensed under the Public Adjusters Licensing Act.

Section 21 amends section 44-2614 of the insurance consultant statutes to harmonize terminology.

Section 22 amends section 44-3905 of the insurance licensee continuing education statutes to provide that approved continuing education activities shall be deemed approved for four years. This section allows the Director of Insurance to recertify an activity if it meets certain criteria. Additionally, this section is amended to conform to current practice as it relates to the criteria for a sponsor to be removed from the approved continuing education sponsor list by removing antiquated criteria and inserting modern criteria.

Section 23 amends section 44-3908 of the insurance licensee continuing education statutes to provide that the director’s rule and regulation authority is permissive rather than mandatory.

Section 24 amends section 44-4053 of the Insurance Producers Licensing Act to remove a reference to prelicensing education.

Section 25 amends section 44-4056 of the Insurance Producers Licensing Act to remove references to prelicensing education.

Section 26 amends section 44-4068 of the Insurance Producers Licensing Act to remove a reference to prelicensing education.

Section 27 amends section 44-4521 of Long-Term Care Insurance Act to remove a reference to prelicensing education.

Section 28 amends section 44-8105 of the Nebraska Protection in Annuity Transactions Act to harmonize a cross reference.

Section 29 amends section 41-8108 of the Nebraska Protection in Annuity Transactions Act to harmonize terminology.

Section 30 amends section 44-8601 of the Insured Homeowners Protection Act to provide for assignment of new sections 32 to 35 within the act.

Section 31 amends section 44-8602 of the Insured Homeowners Protection Act to expand the definition of “residential contractor” to include a person contracting to (1) arrange for, manage, or process the work of repair, replacement, reconstruction, or cleanup on residential real estate, and (2) serve as a representative, agent, or assignee of the owner or possessor of residential real estate.

Section 32 enacts a new section in the Insured Homeowners Protection Act to provide that a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy shall be subject to the following requirements: (1) The assignment may authorize a residential contractor to be named a copayee. (2) The assignment shall be provided to the insurer. (3) The assignment shall include a statement that the residential contractor has made no assurances that the loss will be fully covered by an insurance contract. (4) The assignment shall not impair the interest of a mortgagee. (5) The assignment shall not prevent or inhibit an insurer from communicating with the named insured or mortgagee. This section further provides that the Department of Insurance shall strictly enforce the provisions of the Unfair Insurance Claims Settlement Practices Act which require insurers to provide a named insured a reasonable and accurate explanation of the basis for the denial of a claim or an offer of a compromise settlement.

Section 33 enacts a new section in the Insured Homeowners Protection Act to provide that prior to commencement of repair or replacement work, a residential contractor shall furnish the insured and insurer with an itemized description of the work and the materials, labor, and fees for repair or replacement and the total itemized amount agreed to be paid.

Section 34 enacts a new section in the Insured Homeowners Protection Act to provide that a contract, repair estimate, or work order shall include a notice that it is a violation of insurance laws to rebate any portion of a deductible as an inducement to the insured to accept a residential contractor's proposal to repair.

Section 35 enacts a new section in the Insured Homeowners Protection Act to provide that a contract entered into with a residential contractor is void if the residential contractor violates the act.

Section 36 provides for repeal of the amendatory sections.

Section 37 outright repeals sections requiring prelicensing education: sections 44-3909, 44-3910, 44-3911, 44-3912, and 44-3913.

The bill passed 48-0-1 on March 15, 2018 and was approved by the Governor on March 21, 2018.

LB1012 (Harr) Authorize self-service storage facility operator insurance producer licenses

**Enacted
Operative October 1, 2018**

This bill enacts a new section in the Insurance Producers Licensing Act to provide that the Director of Insurance may issue to the operator of a self-service storage facility a limited license to act as an insurance producer to provide insurance coverage for the loss of, or damage to,

tangible personal property that is contained in storage space or in transit during a rental agreement period.

The bill requires a license issued by the director; payment of application and renewal fees; maintenance with the director of an updated quarterly list of all self-service storage facilities and all employees of the limited licensee who may act on behalf and under the supervision of the limited licensee; and establishment by the limited licensee of an employee training program meeting requirements set out in the bill. The bill provides that a limited licensee shall not offer or sell the insurance specified in the bill except in conjunction with and incidental to a rental agreement; advertise itself or its employees as insurers or licensed producers; pay any additional compensation, fee, or commission dependent on placement of insurance; or require the purchase of insurance from the limited licensee as a condition of rental of leased space at a self-service storage facility.

The bill provides that limited licensees are exempt from insurance producer examination and continuing education requirements.

The bill passed 45-0-4 on April 11, 2018 and was approved by the Governor on April 17, 2018.

MONEY AND FINANCING

LB949 (Albrecht) Rename the Nebraska Educational, Health, and Social Services Finance Authority Act and apply the act to cultural institutions

Left on General File

This bill would amend provisions throughout the Nebraska Educational, Health, and Social Services Finance Authority Act, sections 58-801 to 58-866, to change its name to the Nebraska Educational, Health, “Cultural,” and Social Services Finance Authority Act, and expand its scope beyond private institutions of higher education, private health care institutions, and private social services institutions to include “private cultural institutions.” The types of projects which may be financed under the act would be expanded to include property located within the state that may be used or will be useful in connection with the provision of cultural services to members of the general public.

The bill would rename the Nebraska Educational, Health, and Social Services Finance Authority (authority) to the Nebraska Educational, Health, “Cultural,” and Social Services Finance Authority. The purpose of the authority is to assist eligible institutions with acquisition, construction, improvement, and renovation projects; to acquire equipment; and to administer loan programs. The authority finances projects by issuing public, income tax-exempt bonds and loaning the proceeds to the eligible institutions for the projects. These bonds are not a debt of the state or any of its political subdivisions.

The bill would define a “private cultural institution” as a federal tax-exempt private not-for-profit corporation or institution that has a primary purpose of promoting cultural education or development, such as a museum or related visual arts center, performing arts facility, or facility housing, incubating, developing, or promoting art, music, theater, dance, zoology, botany, natural history, cultural history, or the sciences.

COMMITTEE AMENDMENTS

The committee amendments are technical in nature and would amend the transitional provisions of section 48-866 to correctly provide that it is the intent of the Legislature that changes made by this bill in the name of the act and in the name of the authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to the effective date of the bill.

PROPERTY AND CASUALTY INSURANCE

LB21 (Riepe) Change provisions relating to motor vehicle insurance coverage for loaned vehicles

Left in Committee

This bill would amend section 60-1439.01 of the Motor Vehicle Industry Regulation Act, which currently provides that when an insured person is operating a motor vehicle provided by a motor vehicle dealer for use while the insured person's vehicle is being serviced, repaired, or inspected by the dealer, and both the insured person's and the dealer's motor vehicle insurance policies have mutually repugnant clauses regarding primary coverage, the insured person's policy shall provide primary coverage and the dealer's policy shall provide secondary coverage.

The bill would amend this section to provide that it shall treat a "garage" or "repair shop" in the same manner as a dealer.

LB66 (Hansen) Change provisions relating to stacking of coverage under the Uninsured and Underinsured Motorist Insurance Coverage Act

Left in Committee

This bill would amend sections 44-6410 and 44-6411 of the Uninsured and Underinsured Motorist Insurance Coverage Act to provide that the limits of liability for uninsured or underinsured motorist coverage for two or more motor vehicles insured under separate policies held by different policyholders who are not related persons residing in the same household may be stacked to determine the limit of coverage available to an injured person for any one accident.

LB116 (Harr) Redefine automobile liability policy and change coverage provisions

Left in Committee

This bill would amend section 60-310 of the Motor Vehicle Registration Act to provide that an automobile liability policy shall not exclude, limit, reduce, or otherwise alter liability coverage solely because the person driving the insured motor vehicle is not the named insured in the policy or a member of the named insured's household.

LB213 (Hansen) Add an unfair claims settlement practice under the Unfair Insurance Claims Settlement Practices Act

Left in Committee

This bill would amend section 44-1540 of the Unfair Insurance Claims Settlement Practices Act to provide that it shall be an unfair claims settlement practice to fail to disclose to a claimant, prior to the settlement of a claim involving damage to or the total loss of a motor vehicle, any appraisal information used by the insurer in determining the value of such motor vehicle.

LB643 (Krist) Change automobile liability insurance and financial responsibility requirements

Left in Committee

This bill would increase the current required minimum limits of motor vehicle insurance coverage (1) for bodily injury to or death of other persons and (2) for damage to property of others. The bill would provide, section by section, as follows:

UNINSURED AND UNDERINSURED COVERAGE

Section 1 would amend section 44-6408 of the Uninsured and Underinsured Motorist Insurance Coverage Act to increase the minimum limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident and (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident. (There are no statutory requirements for uninsured and underinsured coverage of injury to or destruction of property of other persons.)

LIABILITY COVERAGE

Sections 2 to 6 would amend the following sections to increase the minimum liability limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident, (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident, and (3) from \$25,000 to \$50,000 for injury to or destruction of property of other persons in one accident:

Section 60-310 of the Motor Vehicle Registration Act (definition of "automobile liability policy" for purposes of motor vehicle registration requirements) (section 2 of the bill);

Section 60-346 of the Motor Vehicle Registration Act (definition of "proof of financial responsibility" for purposes of motor vehicle registration requirements) (section 3 of the bill);

Section 60-501 of the Motor Vehicle Safety Responsibility Act (definition of "proof of financial responsibility") (section 4 of the bill);

Section 60-509 of the Motor Vehicle Safety Responsibility Act (requirements for an automobile liability policy or bond) (section 5 of the bill); and

Section 60-534 of the Motor Vehicle Safety Responsibility Act (requirements for a certified SR22 motor vehicle liability policy) (section 6 of the bill).

Section 7 would amend section 60-549 of the Motor Vehicle Safety Responsibility Act to increase the minimum amount of cash or securities deposited with the State Treasurer necessary to evidence proof of financial responsibility from \$75,000 to \$150,000 - historically this amount has been the sum of the minimum limit for bodily injury to or death of two or more persons plus the minimum limit for injury to or destruction of property of other persons. This section would express this amount by means of an internal reference to subdivisions (13)(b) and (c) of section 60-501.

MISCELLANEOUS PROVISIONS

Section 8 would provide for an operative date of January 1, 2018.

Section 9 would provide for repeal of the amendatory sections.

Minimum limits requirements were first enacted in 1949 and have been increased three times thereafter, as follows:

1949	LB493	\$5,000/\$10,000/\$1,000
1959	LB628	\$10,000/\$20,000/\$5,000
1973	LB365	\$15,000/\$30,000/\$10,000
1983	LB253	\$25,000/\$50,000/\$25,000 (current)

REAL ESTATE

LB208 (Lindstrom) Change provisions relating to broker trust accounts under the Nebraska Real Estate License Act

Left in Committee

This bill would amend section 81-885.21 of the Nebraska Real Estate License Act to provide that the trust account which each real estate broker must maintain for down payments and earnest money deposits may be maintained in a “federally insured financial institution” and not just in a “bank, savings bank, building and loan association, or savings and loan association.” This change would principally apply to financial institutions such as credit unions.

LB683 (Blood) Provide a license fee exemption for servicemembers and their spouses under the Nebraska Real Estate License Act

Left on General File

This bill would amend sections 81-885.14 and 81-885.17 of the Nebraska Real Estate License Act to provide an exemption from the broker’s or salesperson’s license fee in the case of an applicant who is an active duty member of the United States armed forces or the spouse of such servicemember, if such servicemember is assigned to a permanent duty station in Nebraska and the applicant is already licensed in another jurisdiction or was previously licensed in Nebraska within three years prior to becoming a resident of Nebraska after such duty assignment.

Section 81-885.14 provides that the broker’s license fee shall not exceed \$250 and the salesperson’s license fee shall not exceed \$200. Those fees, as established by the State Real Estate Commission, are \$100 and \$80, respectively.

The bill carries the emergency clause.

LB736 (Lindstrom) Change real estate agent duties with respect to certain written disclosures

Left in Committee

Sections 76-2401 to 76-2430 codify in statute the relationships between real estate brokers or salespersons and persons who are sellers, landlords, buyers, or tenants of rights and interests in real property.

This bill would amend section 76-2421 to repeal requirements for brokers and agents to give various written disclosures (1) to a person when the real property the person is purchasing, leasing, or selling is zoned or assessed as commercial or industrial property, or (2) to a trust

represented by another real estate licensee, an attorney, or a licensed trust management organization or business.

REAL PROPERTY APPRAISERS

LB17 (Erdman) Change and eliminate provisions of the Real Property Appraiser Act and the Nebraska Appraisal Management Company Registration Act

Enacted

Effective July 19, 2018

OVERVIEW

This bill, introduced at the request of the Nebraska Real Property Appraiser Board, updates the Nebraska Appraisal Management Company Registration Act (AMC Act) for compliance with: Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI); the AMC Final Rule adopted by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Consumer Financial Protection Bureau, and the Federal Housing Finance Agency; and the requirements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC). The AMC Final Rule was adopted on June 9, 2015, with an effective date of August 10, 2015, to implement the minimum requirements in the Dodd-Frank Wall Street Reform and Consumer Protection Act, which added a new Section 1124 to Title XI, to be applied by participating states in the registration and supervision of appraisal management companies (AMC). The AMC Final Rule also implements the minimum requirements in the Dodd-Frank Act for AMCs that are subsidiaries owned and controlled by an insured depository institution and regulated by a federal financial institutions regulatory agency, and implements the requirement for states to report to the ASC the information required by the ASC to administer the new national registry of AMCs. Participating states have until August 10, 2018 to implement these changes. This bill also includes minor changes to address administration of the AMC Act, and to harmonize the AMC Act with the Nebraska Real Property Appraiser Act (Appraiser Act). Finally, this bill includes one change to the Appraiser Act to maintain compliance with Title XI and the Real Property Appraiser Qualifications Criteria effective on July 1, 2016 as promulgated by The Appraisal Foundation, the source of appraisal standards and qualifications as authorized by the U.S. Congress. If the State of Nebraska is found to not be in compliance with Title XI by the Appraisal Subcommittee, the Appraisal Subcommittee may remove all Nebraska credentialed appraisers from the Federal Registry, resulting in no appraisers being qualified to appraise real property in connection with federally related transactions, which is approximately 80 percent of all mortgage loan activity, or remove all Nebraska registered AMCs from the Federal Registry, which would halt all mortgage loan activity within the state in which AMCs are utilized.

SUMMARY

The bill provides, section by section, as follows:

Section 1 amends section 76-2228.02 of the Appraiser Act to ensure that a person credentialed as a certified real property appraiser in Nebraska or who holds the equivalent credential in another jurisdiction for a period of three years is eligible for approval as a supervisory appraiser of a trainee real property appraiser.

Section 2 amends section 76-3201 of the AMC Act to provide that new sections 5, 6, 19, and 20, shall be assigned to the act.

Section 3 amends section 76-3202 of the AMC Act to enact new definitions and amend and repeal existing definitions, as follows:

Definitions are added for: “affiliate;” “appraisal management services;” “consumer credit;” “covered transaction;” “creditor;” “dwelling;” “federally regulated appraisal management company;” “independent contractor;” and “secondary mortgage market participant.” These definitions mirror those found in the AMC Final Rule.

Definitions are added for: “AMC National Registry;” “AMC Final Rule;” “Appraisal Subcommittee;” “AMC appraiser;” “assignment;” “credential;” “contact person;” “Financial Institutions Reform, Recovery, and Enforcement Act of 1989;” “jurisdiction;” and “registration.” These definitions clarify terms used throughout the AMC Act.

The definitions of “appraisal management company” and “appraiser panel” are changed to mirror the definitions used in the AMC Final Rule.

The definition of “board” is changed to reference the definition found in the Appraiser Act.

The definition of “person” is changed to reference the definition found in the Appraiser Act.

The definition of “federal financial institutions regulatory agency” is changed to “federal agencies” to reference only those federal agencies responsible for the AMC Final Rule, and to prevent confusion with the Federal Financial Institutions Examination Council Regulatory Agencies.

The definition of “valuation assignment” is replaced with “valuation services.”

The definitions of “Appraisal Foundation;” “appraisal review;” “appraisal services;” “appraiser;” “controlling person;” “federally related transaction;” “owned and controlled;” “quality control examination;” “real estate-related financial transaction;” and “relocation management company” are repealed.

Section 4 amends section 76-3203 of the AMC Act to provide authority to the board to request the information necessary to administer and enforce the act in an application for registration or renewal of a registration. The specific individual application requirements are removed. Additional requirements are also placed on AMCs to safeguard the interests of the public, such as, an AMC shall have a good reputation for honesty, trustworthiness, integrity, and competence to perform appraisal management services, and not have had a final civil or criminal judgment entered against it for fraud, dishonesty, breach of trust, or misrepresentation involving real estate, financial services, or appraisal management services within a five-year period immediately preceding the date of application. Authority is also included in this section to allow the board to collect and transmit information required by Title XI, the AMC Final Rule, or any policy or rule

established by the Appraisal Subcommittee. Finally, the renewal requirements for an AMC are better defined.

New section 5 defines the appraiser panel inclusion requirements for an AMC appraiser, and appraiser panel removal and notification requirements for both an AMC and AMC appraiser. This section also establishes that an AMC appraiser shall be free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the federal Truth in Lending Act, as such section existed on January 1, 2018, including the requirements for payment of a reasonable and customary fee to AMC appraisers when the AMC is engaged in providing appraisal management services. This language was previously included as a certification under section 76-3203. Finally, an AMC shall select an AMC appraiser from its appraiser panel for an assignment who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the assignment for the particular market and property type.

New section 6 establishes the reporting requirements for federally regulated AMCs and grants authority to the board to collect and transmit information and fees required by Title XI, the AMC Final Rule, or any policy or rule established by the Appraisal Subcommittee. Finally, this section includes clarification regarding application of the AMC Act to Federally Regulated AMCs.

Section 7 amends section 76-3204 of the AMC Act to establish that the act does not apply to a department or division of a person that provides Appraisal Management Services only to itself, or a person that provides appraisal management services, but does not meet the requirement established by subdivision (5)(c) of section 76-3202. Subdivisions (1), (2), and (3) in this section are replaced due to these issues being addressed within the definition of appraisal management company, appraisal management services, appraiser panel, and the newly added language to this section.

Section 8 amends section 76-3205 of the AMC Act to clarify language.

Section 9 amends section 76-3206 of the AMC Act to grant the board authority to collect and transmit to the Appraisal Subcommittee any fees established by the Appraisal Subcommittee under Title XI, the AMC Final Rule, and any policy or rule established by the Appraisal Subcommittee required for inclusion on the AMC National Registry.

Section 10 amends section 76-3207 of the AMC Act to clarify its ownership requirements to mirror the AMC Final Rule.

Section 11 amends section 76-3208 of the AMC Act to repeal subsections (1) and (2) as these issues are addressed within the added language in sections 2 and 4. Language is added in this section to ensure that AMCs only conduct business in this state under the legal or trade name included in the application as approved by the board for issuance or renewal of a registration, and added language also prevents an AMC from requiring an AMC appraiser to indemnify an AMC or hold an AMC harmless for any liability, damage, losses, or claims arising out of the appraisal management services provided by the AMC.

Section 12 amends section 76-3210 of the AMC Act to clarify as to whom the uniform standards of professional appraisal practice apply to under the act.

Section 13 amends section 76-3212 of the AMC Act to include the language found in the AMC Final Rule regarding the examination of books and records, and the requirement for an AMC to submit reports, information, and documents upon request, as part of the record keeping requirements for an AMC.

Section 14 amends section 76-3213 of the AMC Act to clarify language.

Section 15 amends section 76-3214 of the AMC Act to clarify language.

Section 16 amends section 76-3215 of the AMC Act to harmonize with the language changes throughout the bill. In addition, subsections (2), (3), (4), and (5) are repealed as their subjects are now addressed in Section 4.

Section 17 amends section 76-3216 of the AMC Act to clarify the board's authority to issue cease and desist orders for persons directly or indirectly engaging in or attempting to engage in business as AMCs, or advertising as engaging in or conducting business as AMCs, without first obtaining registration issued by the board or by meeting the requirements as a federally regulated AMC. This language is modeled after language in the Appraiser Act. Finally, this section provides authority to the board to report any violation of appraisal related laws or rules and regulations, along with any disciplinary action taken against an AMC, to the Appraisal Subcommittee.

Section 18 amends section 76-3217 of the AMC Act to add language to ensure that costs incurred for administrative hearing, including fees of counsel, the hearing officer, court reports, investigators, and witnesses, shall be taxed as costs in such action as the board may direct. This language is the same as found in the Appraiser Act.

New sections 19 and 20 clarify the Attorney General's authority within the AMC Act.

Section 21 provides for repeal of the amendatory sections.

Minor language changes are also made throughout the AMC Act to harmonize and clean up the language within the AMC Act, and to also harmonize the AMC Act with the Appraiser Act.

The bill passed 46-0-3 on March 15, 2018 and was approved by the Governor on March 21, 2018.

LB551 (Walz) Change qualifications for certain real property appraiser credentials

Left in Committee

OVERVIEW

This bill would amend sections 76-2228.01, 76-2230, 76-2231.01, and 76-2232 of the Real Property Appraiser Act to change provisions regarding educational and experience requirements for credentialing as trainee real property appraisers, licensed residential real property appraisers, certified residential real property appraisers, and certified general real property appraisers.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would amend section 76-2228.01 regarding trainee real property appraisers to reduce educational requirements and harmonize internal references.

Section 2 would amend section 76-2230 regarding credentialing of licensed residential real property appraisers to reduce education requirements and reduce the experience requirement from “two” thousand hours to “one” thousand hours. This section would also repeal the requirement that the experience shall have occurred during a period of no fewer than twelve months.

Section 3 would amend section 76-2231.01 regarding credentialing of certified residential real property appraisers to reduce educational requirements and reduce the experience requirement from “two” thousand five hundred hours to “one” thousand five hundred hours. This section would also repeal the requirement that the experience shall have occurred during a period of no fewer than twenty-four months.

Section 4 would amend section 76-2232 regarding credentialing of certified general real property appraisers to reduce the experience requirement from “three” thousand hours, of which one thousand “five hundred” hours shall be in nonresidential appraisal work to “two” thousand hours, of which one thousand hours shall be in nonresidential appraisal work. This section would also repeal the requirement that the experience shall have occurred during a period of no fewer than thirty months.

Section 5 would provide for repeal of the amendatory sections.

LB741e (Lindstrom) Change provisions relating to real property appraisers

Enacted

Effective April 12, 2018

Speaker Priority Bill

OVERVIEW

This bill, introduced at the request of the Nebraska Real Property Appraiser Board, updates Nebraska's Real Property Appraiser Act for compliance with Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("Title XI"), the Uniform Standards of Professional Appraisal Practice ("USPAP"), and the Policy Statements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC Policy Statements"). Title XI requires each state to prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions. In addition, real estate appraisals are to be performed in accordance with generally accepted uniform standards, and are to be performed by an individual whose competency has been demonstrated, and whose professional conduct is subject to effective state supervision. If the State of Nebraska is found to not be in compliance with Title XI by the Appraisal Subcommittee, it may remove all Nebraska-credentialed appraisers from the Federal Registry, resulting in no appraisers being qualified to appraise real property in connection with federally related transactions, which is approximately 80 percent of all mortgage loan activity in the state. Along with the changes required by the Appraisal Subcommittee, USPAP, and the ASC Policy Statements, the bill also makes minor changes to address administration of the Real Property Appraiser Act by Nebraska's Real Property Appraiser Board, including elimination of a credential that is not in use.

SUMMARY

The bill amends the Real Property Appraiser Act to provide, section by section, as follows:

Section 1 amends section 76-2201 to provide for section number assignment or re-assignment of sections 6 to 21, which are definition sections.

Section 2 amends section 76-2202 to repeal an unnecessary date reference to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Section 3 amends section 76-2203 to update an internal reference to definition sections.

Section 4 amends section 76-2205.02 to change the definition of "appraisal review assignment" to "appraisal review" and to provide that it further means "pertaining to an opinion about the quality of another appraiser's work that was performed as part of a valuation assignment, evaluation assignment, or appraisal review assignment." These changes reflect the provisions of the 2018-19 edition of USPAP.

Section 5 amends section 76-2207.01 to provide that an "assignment" means valuation service that is performed "by an appraiser" as a consequence of an agreement "with a client" rather than "(1) an agreement between a real property appraiser or real property associate and a client to

perform a valuation service or (2) the" valuation service that is performed as a consequence of such agreement. These changes reflect the provisions of the 2018-19 edition of USPAP.

Section 6 enacts a new section to provide a definition of "assignment results": "the opinions or conclusions developed by a real property appraiser when performing valuation services specific to an assignment not limited to value for an appraisal assignment, and not limited to an opinion about the quality of another appraiser's work for an appraisal review assignment." This new definition reflects the provisions of the 2018-19 edition of USPAP.

Sections 7 to 10 amend sections 76-2207.02, 76-2207.03, 76-2207.04, and 76-2207.05 to provide for section number re-assignment.

Section 11 amends section 76-2207.06 to provide for section number re-assignment and to repeal a reference to real property associates.

Sections 12 to 14 amend sections 76-2207.07, 76-2207.08, and 76-2207.09 to provide for section number re-assignment.

Section 15 amends section 76-2207.10 to provide for section number re-assignment and to repeal a reference to real property associates.

Sections 16 and 17 amend sections 76-2207.11 and 76-2207.12 to provide for section number re-assignment.

Section 18 amends section 76-2207.13 to provide for section number re-assignment and to provide that "Fifteen-hour National Uniform Standards of Professional Appraisal Practice Course" means the course approved by the Appraisal Qualifications Board and no longer also means the equivalent course as approved by the Real Property Appraiser Board. This section repeals an unnecessary date reference to the fifteen-hour course.

Section 19 amends section 76-2207.14 to provide for section number re-assignment and to update an internal date reference.

Sections 20 and 21 amend sections 76-2207.15 and 76-2207.16 to provide for section number re-assignment.

Section 22 amends section 76-2215 to provide that "real property appraisal activity" means any act or process involved in developing an analysis, opinion, or conclusion relating to the specified interests, rather than the "value of" specified interests in or aspects of identified real estate or real property. This section repeals "value of" due to redundancy.

Section 23 amends section 76-2216.02 to provide that "report" means a communication of an appraisal or appraisal review transmitted to a client "or a party authorized by the client" upon completion of an assignment. These changes reflect the provisions of the 2018-19 edition of USPAP.

Section 24 amends section 76-2218.02 to update a date reference in the definition of "Uniform Standards of Professional Appraisal Practice."

Sections 25 to 27 amend sections 76-2219.01, 76-2220, and 76-2221 to repeal references to real property associates.

Section 28 amends section 76-2222 to repeal redundant provisions regarding membership of the Real Property Appraiser Board. These provisions are outdated due to a previous amendment in this section. This section also capitalizes "the" as it references "The Appraisal Foundation."

Section 29 amends section 76-2227 to repeal provisions which require that "credentials shall be issued only to persons who have demonstrated a general knowledge of Nebraska law as it pertains to real property appraisal activity" because these provisions create an unnecessary burden to entry into the profession.

Section 30 amends section 76-2233 to update provisions regarding issuance of credentials through reciprocity in order to lessen the burden to obtaining a credential in Nebraska. This section also adds a clear standard by which the Real Property Appraiser Board shall verify the standing of a reciprocal applicant's jurisdiction of practice.

Section 31 amends section 76-2233.03 to repeal provisions regarding real property associates.

Section 32 amends section 76-2236 to repeal a requirement that no more than 14 hours of continuing education activities in each two-year continuing education period may be taken online or by correspondence. This section repeals a requirement that the seven-hour National USPAP Update Course shall be taken in a classroom and not online or by correspondence. This section repeals a requirement for a report writing update course as part of continuing education because this requirement places an unnecessary burden on Nebraska credential holders. This section also repeals an unnecessary internal reference.

Section 33 amends section 76-2236.01 to repeal references to real property associates.

Section 34 amends section 76-2238 to update provisions relating to "appraisal reviews" and "appraisal results." These changes reflect the provisions of the 2018-19 edition of USPAP. This section also repeals references to real property associates.

Sections 35 to 37 amend sections 76-2245, 76-2246, and 76-2247.01 to repeal references to real property associates.

Section 38 provides for repeal of the amendatory sections.

Section 39 outright repeals sections 76-2216.01 and 76-2227.01, which provide for issuance of a Nebraska-specific credential: real property associate. No such credential has been issued.

Section 40 provides for the emergency clause.

The bill passed 45-0-4 with the emergency clause on April 6, 2018 and was approved by the Governor on April 11, 2018.

REAL PROPERTY INSTRUMENTS

LB750 (Williams) Change provisions relating to mortgage licensing, recording of real property instruments, and rights and duties of secured creditors

Enacted

Effective July 19, 2018

Committee Priority Bill (Banking, Commerce and Insurance)

This bill amends the mortgage statutes, the Nebraska Trust Deeds Act, and the Nebraska Security Instrument Satisfaction Act to provide, in section 76-2803 of the Nebraska Security Instrument Satisfaction Act, a single set of remedies for failure of a mortgagee, beneficiary, or secured creditor to timely file or cause to be filed a release of mortgage, a deed or reconveyance, or a security instrument, as applicable.

The bill provides in section 76-2803 that a secured creditor shall, after the secured creditor receives full payment or performance of a secured obligation and receives a written request by the trustor, mortgagor, or grantor, or the trustor's, mortgagor's, or grantor's successor in interest, record, or cause to be recorded, a deed of reconveyance or a release or satisfaction of a mortgage or other security instrument, as applicable. A secured creditor who fails to do so is liable (a) to the trustor, mortgagor, or grantor, or the successor in interest, for the greater of \$5,000 or actual damages, plus attorney's fees and costs or (b) to a successor in interest of the trustor, mortgagor, or grantor or of a landowner, purchaser, or holder of a junior security interest for actual damages plus attorney's fees and costs. The court may further order the trustee to reconvey the property or order the mortgagee or grantee to record a release or satisfaction of the mortgage or other security instrument.

The bill also amends section 76-238 of the mortgage statutes to specify that the transfer of any debt secured by a mortgage shall also operate as a transfer of the security of such debt.

The bill also amends section 45-737 of the Residential Mortgage Licensing Act to harmonize provisions.

The bill passed 47-0-2 on March 15, 2018 and was approved by the Governor on March 21, 2018.

RESIDENTIAL CONTRACTORS

LB220 (Harr) Amend the Insured Homeowners Protection Act

Left on General File

Provisions amended into LB743 and Enacted

This bill would amend sections 44-8601 and 44-8602 of the Insured Homeowners Protection Act and enact three new sections to be assigned with such act in order to provide for more consumer protections regarding post-loss assignment of rights or benefits to residential contractors under property and casualty insurance policies insuring residential real estate.

The bill would provide, section by section, as follows:

Section 1 would amend section 44-8601 to provide for assignment of new sections 3 to 5 within the Insured Homeowners Protection Act.

Section 2 would amend section 44-8602 to expand the definition of “residential contractor” to include a person contracting to (1) arrange for, manage, or process the work of repair, replacement, reconstruction, or cleanup on residential real estate, and (2) serve as a representative, agent, or assignee of the owner or possessor of residential real estate.

Section 3 would enact a new section to provide that a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy shall be subject to the following requirements. (1) The assignment shall only authorize a residential contractor to be named a copayee. (2) The assignment shall be provided to the insurer. (3) The assignment shall include an itemized description of the work, materials, labor, and fees, and the total itemized amount agreed to be paid. (4) The assignment shall include a statement that the residential contractor has made no assurances that the loss will be fully covered by an insurance contract. (5) The assignment shall not impair the interest of a mortgagee. (6) The assignment shall not prevent or inhibit an insurer from communicating with the named insured or mortgagee.

Section 4 would enact a new section to provide that a contract, repair estimate, or work order shall include a notice that it is a violation of insurance laws to rebate any portion of a deductible as an inducement to the insured to accept a residential contractor’s proposal to repair.

Section 5 would enact a new section to provide that a contract entered into with a residential contractor is void if the residential contractor violates the Insured Homeowners Protection Act.

Section 6 would provide for repeal of the amendatory sections.

COMMITTEE AMENDMENTS

The committee amendments would become the bill. They would make structural and stylistic changes as well as substantive changes.

The amendments would provide that an assignment of rights or benefits to a residential contractor “may” rather than “shall only” authorize the contractor to be named as a copayee for payment of benefits under a property and casualty insurance policy.

The amendments would expand notice provisions in order to inform an insured homeowner that with an assignment, the residential contractor shall be entitled to pursue any rights or remedies that the insured homeowner has under the insurance policy.

The amendments would provide that the required itemized description of the work, materials, labor, fees, and total amount to be paid shall be furnished to the insured and insurer prior to commencement of repair or replacement work. The amendments would further provide that the description shall not limit the insured or residential contractor from identifying other goods and services necessary to complete repairs or replacement.

SECURITIES

LB813 (Lindstrom) Redefine terms and adopt certain federal provisions relating to the Securities Act of Nebraska

Left on General File

This bill, introduced at the request of the Nebraska Department of Banking and Finance, would amend various sections of the Securities Act of Nebraska. The bill would provide, section by section, as follows:

Section 1 would amend section 8-1101, which is the definitional section of the act. The amendments would:

--Correct a discrepancy between the definition of a “federal covered adviser” in subdivision (4) and an exclusion to the definition of an “investment adviser” in subdivision (7)(h). The effect of the amendment will be that persons who are excluded from the federal definition of investment adviser will not be included in the state’s definition of a federal covered adviser, and

--Update subdivision (14) to provide that references to named federal securities acts will be those acts as they existed on January 1, 2018 (currently January 1, 2017).

Section 2 would amend section 8-1101.01 to update references to federal rules and regulations adopted under the federal Investment Advisors Act of 1940 and the federal Securities Act of 1933 as those rules and regulations existed on January 1, 2018 (currently January 1, 2017), and to remove an obsolete reference to federal Rules 147 and 147A adopted under the Securities Act of 1933.

Section 3 would amend section 8-1103, which is the principal registration statute in the act for firms and individuals providing securities-related services and products, to update a reference within subdivision (9)(c)(i) to the fair practice and ethical standards adopted by the Securities and Exchange Commission or the Financial Industry Regulatory Authority in effect on January 1, 2018 (currently January 1, 2017).

Section 4 would amend section 8-1111, which provides for transactional exemptions from registration (securities, broker-dealer, agent) under the act, to update a reference within subdivision (5) to the federal Interstate Land Sales Full Disclosure Act as that act existed on January 1, 2018 (currently January 1, 2017).

Section 5 would provide for repeal of the amendatory sections.

Section 6 would provide for the emergency clause.

SURPLUS LINES INSURANCE

LB799 (Kolterman) Modify deadlines and sanctions in the Surplus Lines Insurance Act

Enacted

Effective July 19, 2018

This bill, introduced at the request of the Nebraska Department of Insurance, amends two provisions of the Surplus Lines Insurance Act to harmonize dates and to allow for administrative sanctions without a cease and desist order.

Section 1 amends section 44-5511 to harmonize the dates a surplus lines licensee must file a quarterly report with the department with the dates contained in section 44-5506, which provides the dates by which a licensee must file quarterly taxes.

Section 2 amends section 44-5512 to provide that the department may file an administrative action against a surplus lines licensee without first issuing a cease and desist order. Previous law required the issuing of the cease and desist order in all situations before an administrative hearing.

Section 3 provides for repeal of the amendatory sections.

The bill passed 45-0-4 on April 10, 2018 and was approved by the Governor on April 11, 2018.

UNCLAIMED PROPERTY

LB141 (Williams) Adopt the Revised Uniform Unclaimed Property Act

Left in Committee

This bill would enact 94 new sections to be known as the Revised Uniform Unclaimed Property Act and would repeal the Uniform Disposition of Unclaimed Property Act, sections 69-1301 to 69-1329. The act would provide for when personal property, generally intangible, is presumed to be abandoned by its owner and is required to be reported by its holder to the custody of the State Treasurer.

GENERAL PROVISIONS

- Section 1. Named act.
- Section 2. Definitions.
- Section 3. Inapplicability to foreign transactions.
- Section 4. Rulemaking.

PRESUMPTION OF ABANDONMENT

- Section 5. When property presumed abandoned.
- Section 6. When tax-deferred retirement account presumed abandoned.
- Section 7. When other tax-deferred account presumed abandoned.
- Section 8. When custodial account for minor presumed abandoned.
- Section 9. When contents of safe-deposit box presumed abandoned.
- Section 10. When stored-value card presumed abandoned.
- Section 11. When gift certificate or gift card presumed abandoned.
- Section 12. When security presumed abandoned.
- Section 13. When related property presumed abandoned.
- Section 14. Indication of apparent owner interest in property.
- Section 15. Knowledge of death of insured or annuitant.
- Section 16. Deposit account for proceeds of insurance policy or annuity contract.

RULES FOR TAKING CUSTODY OF PROPERTY PRESUMED ABANDONED

Section 17. Address of apparent owner to establish priority.

Section 18. Address of apparent owner in this state.

Section 19. If records show multiple addresses of apparent owner.

Section 20. Holder domiciled in this state.

Section 21. Custody if transaction took place in this state.

Section 22. Traveler's check, money order, or similar instrument.

Section 23. Burden of proof to establish State Treasurer's right to custody.

REPORT BY HOLDER

Section 24. Report required by holder.

Section 25. Content of report.

Section 26. When report to be filed.

Section 27. Retention of records by holder.

Section 28. Property reportable and payable or deliverable absent owner demand.

NOTICE TO APPARENT OWNER OF PROPERTY PRESUMED ABANDONED

Section 29. Notice to apparent owner by holder.

Section 30. Contents of notice by holder.

Section 31. Notice by State Treasurer.

Section 32. Cooperation among state officers and agencies to locate apparent owner.

TAKING CUSTODY OF PROPERTY BY STATE TREASURER

Section 33. Definition of good faith.

Section 34. Dormancy charge.

Section 35. Payment or delivery of property to State Treasurer.

Section 36. Effect of payment or delivery of property to State Treasurer.

Section 37. Recovery of property by holder from State Treasurer.

Section 38. Property removed from safe-deposit box.

Section 39. Crediting income or gain to owner's account.

Section 40. State Treasurer's options as to custody.

Section 41. Disposition of property having no substantial value; immunity from liability.

Section 42. Periods of limitation and repose.

SALE OF PROPERTY BY STATE TREASURER

Section 43. Public sale of property.

Section 44. Disposal of securities.

Section 45. Recovery of securities or value by owner.

Section 46. Purchaser owns property after sale.

Section 47. Military medal or decoration.

ADMINISTRATION OF PROPERTY

Section 48. Deposit of funds by State Treasurer.

Section 49. State Treasurer to retain records of property.

Section 50. Expenses and service charges of State Treasurer.

Section 51. State Treasurer holds property as custodian for owner.

CLAIM TO RECOVER PROPERTY FROM STATE TREASURER

Section 52. Claim of another state to recover property.

Section 53. When property subject to recovery by another state.

Section 54. Claim for property by person claiming to be owner.

Section 55. When State Treasurer must honor claim for property.

Section 56. Allowance of claim for property.

Section 57. Action by person whose claim is denied.

VERIFIED REPORT OF PROPERTY; EXAMINATION OF RECORDS

Section 58. Verified report of property.

- Section 59. Examination of records to determine compliance.
- Section 60. Rules for conducting examination.
- Section 61. Records obtained in examination.
- Section 62. Evidence of unpaid debt or undischarged obligation.
- Section 63. Failure of person examined to retain records.
- Section 64. Report to person whose records were examined.
- Section 65. Complaint to State Treasurer about conduct of person conducting examination.
- Section 66. State Treasurer's contract with another to conduct examination.
- Section 67. Limit on future employment.
- Section 68. Report by State Treasurer to state official.
- Section 69. Determination of liability for unreported reportable property.

DETERMINATION OF LIABILITY; PUTATIVE HOLDER REMEDIES

- Section 70. Informal conference.
- Section 71. Review of State Treasurer's determination.
- Section 72. Administrative review.
- Section 73. Judicial remedy.

ENFORCEMENT BY STATE TREASURER

- Section 74. Judicial action to enforce liability.
- Section 75. Interstate and international agreement; cooperation.
- Section 76. Action involving another state or foreign country.
- Section 77. Interest and penalty for failure to act in timely manner.
- Section 78. Other civil penalties.
- Section 79. Waiver of interest and penalty.

AGREEMENT TO LOCATE PROPERTY OF APPARENT OWNER HELD BY STATE
TREASURER

Section 80. When agreement to locate property enforceable.

Section 81. When agreement to locate property void.

Section 82. Right of agent of apparent owner to recover property held by State Treasurer.

CONFIDENTIALITY AND SECURITY OF INFORMATION

Section 83. Definitions; applicability.

Section 84. Confidential information.

Section 85. When confidential information may be disclosed.

Section 86. Confidentiality agreement.

Section 87. No confidential information in notice.

Section 88. Security of information.

Section 89. Security breach.

Section 90. Indemnification for breach.

Section 91. Escheat of United States Savings Bond (non-uniform section).

MISCELLANEOUS PROVISIONS

Section 92. Uniformity of application and construction.

Section 93. Relation to electronic signatures in global and national commerce act.

Section 94. Transitional provision.

Sections 95 to 113. Amendments to sections 2-1223, 8-170, 9-645, 21-2,202, 21-1737, 21-19,145, 23-2315, 24-345, 24-708, 25-2717, 43-3344, 44-4845, 69-2304, 69-2308, 79-932, 79-956, 81-2025, 84-617, and 84-1317 to harmonize internal references to the act.

Section 114. Operative date July 1, 2018.

Section 115. Severability.

Section 116. Repeal of the amendatory sections.

Section 117. Outright repealers of sections 69-1301 to 69-1329, the Uniform Disposition of Unclaimed Property Act (current Nebraska act).

VIRTUAL-CURRENCY BUSINESS

LB987 (Schumacher) Adopt the Uniform Regulation of Virtual-Currency Businesses Act

Left in Committee

This bill would enact the Uniform Regulation of Virtual-Currency Businesses Act (URVCBA) as promulgated by the National Conference of Commissioners on Uniform State Laws in 2017. The URVCBA provides a statutory framework for the regulation of companies engaging in “virtual-currency business activity”. Virtual-currency business activity means exchanging, transferring, or storing virtual currency; holding electronic precious metals or certificates of electronic precious metals; or exchanging digital representations of value within online games for virtual currency or legal tender. The URVCBA’s three-tiered structure identifies whether an individual or company engaging in virtual currency business activity is (1) exempt from the act; (2) must register; or (3) must obtain a license. The URVCBA also contains numerous consumer protections. The contents of the bill are as follows:

GENERAL PROVISIONS

Section 1. Short title.

Section 2. Definitions.

Section 3. Scope.

Section 4. Supplementary law.

LICENSURE

Section 5. Conditions precedent to engaging in virtual-currency business activity.

Section 6. License by application.

Section 7. License by reciprocity.

Section 8. Security, net worth, and reserves

Section 9. Issuance of license; appeal.

Section 10. Renewal of license.

Section 11. Registration in lieu of license.

Sections 12. License or registration not assignable or transferable.

Section 13. Rules and guidance.

EXAMINATION; EXAMINATION FEES; DISCLOSURE OF INFORMATION
OBTAINED DURING EXAMINATION

Section 14. Authority to conduct examination.

Section 15. Records.

Section 16. Rules; cooperation; and data-sharing authority.

Section 17. Confidentiality.

Section 18. Interim report.

Section 19. Change in control of licensee or registrant.

Section 20. Merger or consolidation by licensee or registrant.

ENFORCEMENT

Section 21. Enforcement measure.

Section 22. Department authority to use enforcement measures.

Section 23. Notice and opportunity for hearing.

Section 24. Civil penalty.

Section 25. Effective period of revocation, suspension, or cease and desist order.

Section 26. Consent order.

Section 27. Scope of right of action.

DISCLOSURES AND OTHER PROTECTIONS FOR RESIDENTS

Section 28. Required disclosures.

Section 29. Property interests and entitlements to virtual currency.

POLICIES AND PROCEDURES

Section 30. Mandated compliance programs and monitoring.

Section 31. Mandated compliance policy or procedure.

MISCELLANEOUS PROVISIONS

Section 32. Uniformity of application and construction.

Section 33. Relation to Electronic Signatures in Global and National Commerce Act.

Section 34. Saving and transitional provisions.

Section 35. Severability clause.

**BANKING, COMMERCE AND INSURANCE COMMITTEE
INTERIM STUDY RESOLUTIONS
2018**

LR352 (Lindstrom) Interim study to determine whether the Real Property Appraiser Act should be updated

LR376 (Kolterman) Interim study to examine whether the Property and Casualty Insurance Rate and Form Act should be amended to modernize and reduce regulatory requirements for commercial lines of property and casualty insurance

LR378 (Larson) Interim study to examine what changes to the Uniform Protected Series Act are necessary for the act to best fit within Nebraska entity law and practices

